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Martin Moshal

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EXAMINER

AHMED, MASUD

ART UNIT

PAPER NUMBER

3714

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/545,213	<b>Applicant(s)</b> MOSHAL, MARTIN	
	<b>Examiner</b> MASUD AHMED	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03/05/2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-22,25-54 and 56-62 is/are rejected.
- 7) ☒ Claim(s) 2,3,23,24 and 55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/05/2010 has been entered.

### ***Response to Arguments***

Applicant's arguments filed 03/05/2010 have been fully considered but they are not persuasive. Examiner respectfully disagrees with the applicant at least for the following:

In response to the applicant's argument on player wagering on multiplayer game outcome is not taught by the prior art of reference is disagrees because, to play a progressive slot machine when a player wager on their own machine, a percentage goes toward the pool or for the progressive jackpot thus a player is indeed wagering on the multiplayer game.

In response to the applicant's argument on "There is no teaching or suggestion whatsoever that the instances of different slot machine games played by different players are combined in any way whatsoever into a multiplayer wager game", again examiner respectfully disagrees with the argument because the claim language

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specifically states "separate instance of the **same** single player game", therefore a progressive slot such as wheel of fortune played by different players individually on their own machines which is also tied to a jackpot they can possibly win.

### ***Allowable Subject Matter***

2. **Claims 2-3, 23-24 and 55** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 102/35 USC § 103***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**1. Claims 1-4, 9, 18 and 32-36, 41 and 50 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over (US 7,192,351) to Rozkin et al.**

**Regarding Claims 1 and 33,**

Rozkin discloses a method, and central game server ("game server" mentioned in Abstract, also see an illustration of the game server **34** in Fig. 3), facilitating play of a single-player game (Abstract, different players independently play different games in a common gaming environment), the outcome comprising a set of symbols indicating a result of play (Fig. 1, slots), on a workstation having a display (Abstract, computers, also Fig. 1 shows an example screen shot that will be seen by each player on their home computer **30**, shown in Fig. 3), comprising the steps of: (a) sending data from a central server to the workstation (Fig. 3, two way data transfer occurs between each home computer **30** and the game server **34** over the internet connection **32**) comprising the outcome of a first instance of a single-player game, the first instance comprising an

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instance of play of the single-player game being engaged in via the workstation (see Abstract, which discloses that a remote web server, which is the central server, allows each player to see instances of other player's slot machines. See Fig. 1, which is an example screen shot of one of the players.) and (b) sending data from the central server to the workstation comprising the outcome of a second instance of the single-player game, the outcome comprising a set of symbols indicating a result of play, the second instance being an instance of play of the single-player game being engaged in via a second workstation other than the first workstation (again see Fig. 1. Each of the player's game instances are independently conducted and then broadcast over a network such that the other players can see the outcome); whereby the workstation may simultaneously display on its display the outcomes of play of the instances of the single-player game being engaged in by both the workstation and the second workstation (See Fig. 1), wherein at least the single player games engaged in by both the workstation and the second workstation are combined into a multiplayer game, with the outcome of the multiplayer game being a function of the results of play of the single-player games engaged in via the workstation and the second workstation (Rozkin states that his system is compatible of having the further addition of progressive jackpots, to his gaming machines which may be slot machines or video poker machines. See Col. 1 Lines 35-45. Also as discussed above, it is notoriously old and well-known that progressive jackpots can be triggered by one of a plurality of single-player gaming machines meeting predetermined criteria from one of the single-player base games.)

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Thus an outcome for the progressive jackpot can be favorable or unfavorable depending on the player hitting the jackpot.

**Regarding claim 34**, Rozkin teaches at least one turn of the single player game in each separate instance of the single player game played at the player station (see abstract and FIG 1).

**Regarding Claims 4 and 35-36,**

Rozkin further discloses the first workstation and the second workstation comprising computing devices connected to the central server over a computer network (The abstract discloses that multiple players, each using their own computer, share their independent casino games in a common environment, through the use of a game server. Fig. 3 shows that the connection between each home computer **30** and the server **34** can be the internet **32**); thus the outcome is determined by the facility, further Rozkin states that his system is compatible of having the further addition of progressive jackpots, to his gaming machines which may be slot machines or video poker machines. See Col. 1 Lines 35-45. Also as discussed above, it is notoriously old and well-known that progressive jackpots can be triggered by one of a plurality of single-player gaming machines meeting predetermined criteria from one of the single-player base games.

**Regarding claims 9 and 41**, Rozkin teaches the machine simultaneously display on its display the outcomes of play of the instances of the single-player game being engaged

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in by both the workstation and the second workstation (See Fig. 1), A wagering outcome in a slow machines known to be variables such as 3 symbols alike may give you higher award than 2 symbols alike, thus the success of the play winning can be considered higher wins or lower wins by ranking the wins.

**Regarding claims 18 and 50**, Rozkin further discloses the first and second instances of the single-player game occurring substantially simultaneously and the results of play being determined by the central server (the Abstract and Col. 3 Lines 38-40 disclose that the game server and local terminals are programmed to allow players to share a common gaming environment).

**Regarding claims 32**, Rozkin further discloses the game being selected from the group of single-player games consisting of slots, a single-player card game, and roulette (Col. 3 Lines 15-18, single player slots and single player video poker are specifically disclosed as examples of different types of games that each player can choose).

**2. Claims 5-8, 10-17 ,19-31, 37-40, 42-49 and 51-62 are rejected under 35 U.S.C. 103(a) as obvious over (US 7,192,351) to Rozkin et al, in view of Weingardt (US 5476,259).**



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**Regarding claims 5-8, 37- 40**, Rozkin discloses his game being playable against multiple players and further he suggests of progressive jackpot which is known to be an accumulation of players play percentage that results in a progressive jackpot prize, however Rozkin is silent on exclusively disclosing prize pool and a fee retained by the operator for the jackpot pool. Weingardt'259 teaches of a method to play a pari-mutuel style slot game for a plurality of players comprising: Identifying two or more players participating in a game (see column 5, lines 26 – 31); Establishing a wager pool from each of the players (see column 7, lines 35 – 39); Reducing the wager pool by a takeout amount (see column 20, lines 28 - 31); Generating one or more random numbers (see column 21, lines 62 – 65); Determining the winners of the selected game (see claim 1 (d)); Distributing funds from the wager pool to the winner of the game (see claim 1 (e)). Weingardt'259 teaches of distributing the funds from the wager pool in accordance with a non-fixed payout schedule (see column 6, lines 32 – 36). Weingardt'259 teaches of storing account information that states the available funds for each player (see column 10, lines 61 – 63) and credits the amount of available funds if the player is determined to be a winner (see column 11, lines 19 - 21). Weingardt'259 further teaches of displaying a list of a plurality of games, where the list can include games such as poker or blackjack (see column 20, lines 23 – 27) and the player can choose which of those games they choose to play (see column 19, lines 1 – 6);determining the takeout amount as a predetermined percentage of the wager pool (see column 13, lines 29 – 36) and the amount of the winnings is dependent on the participation of other players in the same game.

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Therefore it would have been obvious to ordinary skilled artisan at the time of invention by integrating the pool prize feature of Weingardt and a facility fee for the jackpot into Rozkin's multiplayer progressive play system so that the player can compete with each other instead of playing against the house, thus the house does not lose any money by facilitating the game.

**Regarding claims 10-14 and 42-46**, Rozkin is silent on disclosing the multi-players game is a pari-mutuel style game where players are awarded prize when they win, or they continue to play until a winner is selected or another word a jackpot is hit. Even though as disclosed above a progressive jackpot can be considered as multiplayer games with a pool prize, we can focus our attention to the teachings of Weingardt where he discloses Establishing a wager pool from each of the players (see column 7, lines 35 – 39); Reducing the wager pool by a takeout amount (see column 20, lines 28 - 31); Generating one or more random numbers (see column 21, lines 62 – 65); Determining the winners of the selected game (see claim 1 (d)); Distributing funds from the wager pool to the winner of the game (see claim 1 (e)). Wherein players play the multiplayer game simultaneously to compete against each other, further on FIG 13 shows the players activities and credit balance is tracked and accumulated to the player specific account where the awards get distributed. A jackpot not being hit by a player at this point can be considered as tie between players therefore continue to play until jackpot is hit. Thus player's turns carry over.

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**Regarding claims 15-17 and 47-49**, Rozkin is silent on disclosing breaking the tie games between the players, however Weingardt disclosure as described above can be considered to be the tie breaking points when a player hit the jackpot. Applicant's claim invention of breaking tie after certain numbers of try by the player can simply be considered as design of the game because if the wager amount does not increase as the players play the game, then the lengthy time for the game can be a loss for the casino facilities because they are not generating extra revenue within that time, therefore it would be within the knowledge of ordinary skilled artisan to have the machine either automatically or randomly break the ties between the players if the ties continues for so long so that the next game play can start.

**Regarding claims 19 and 51**, Rozkins teaching of slot wagering game for each player on their machine is independent of the players winning the progressive jackpot which is considered to be an accumulated account.

**Regarding claims 20-22 and 52, 54 and 56**, Rozkin further discloses the further step of sending data from the central server to the workstation comprising the outcome of a third instance of the single-player game, the outcome comprising a set of symbols indicating a result of play, the third instance being an instance of play of the single-player game being engaged in by a third workstation other than the first workstation and the second workstation whereby the workstation may display the outcomes of the first, second and third instances of the single-player game (see Fig. 1, four instances of play

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are shown as an example). Rozkin is silent on disclosing the multi-players game is a pari-mutuel style game where players are awarded prize when they win, or they continue to play until a winner is selected or another word a jackpot is hit. Even though as disclosed above a progressive jackpot can be considered as multiplayer games with a pool prize, we can focus our attention to the teachings of Weingardt where he discloses Establishing a wager pool from each of the players (see column 7, lines 35 – 39); Reducing the wager pool by a takeout amount (see column 20, lines 28 - 31); Generating one or more random numbers (see column 21, lines 62 – 65); Determining the winners of the selected game (see claim 1 (d)); Distributing funds from the wager pool to the winner of the game (see claim 1 (e)). Wherein players play the multiplayer game simultaneously to compete against each other, further on FIG 13 shows the players activities and credit balance is tracked and accumulated to the player specific account where the awards get distributed. A jackpot not being hit by a player at this point can be considered as tie between players therefore continue to play until jackpot is hit. Thus player's turns carry over. Weingardt<sup>259</sup> further teaches of displaying a list of a plurality of games, where the list can include games such as poker or blackjack (see column 20, lines 23 – 27) and the player can choose which of those games they choose to play (see column 19, lines 1 – 6); determining the takeout amount as a predetermined percentage of the wager pool (see column 13, lines 29 – 36) and the amount of the winnings is dependent on the participation of other players in the same game.

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**Regarding claims 25-31 and 57-62**, Rozkin discloses each individual games of the multiplayer's game have the award associated with it, which can be considered as point value. Fig. 3 shows that the connection between each home computer **30** and the server **34** can be the internet **32** where players win their own game awards, further the progressive jackpot as disclosed above is considered to be the accumulated wagers prize, now whether the players should be selected based on their winning awards to be eligible for progressive award or no and giving the player to opt out of the progressive jackpot game is solely based on the design of the wagering game. Weindgardt discloses Establishing a wager pool from each of the players (see column 7, lines 35 – 39); Reducing the wager pool by a takeout amount (see column 20, lines 28 - 31); Generating one or more random numbers (see column 21, lines 62 – 65); Determining the winners of the selected game (see claim 1 (d)); Distributing funds from the wager pool to the winner of the game (see claim 1 (e)). Therefore it would have been obvious to ordinary skilled artisan at the time of invention to include Wiengardt pool prize wagering system by adding certain eligibility condition to the Rozkin's system to give players option to either opt out of the game or wager more to accrued more points to be eligible for the accumulated awards.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MASUD AHMED whose telephone number is (571)270-

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1315. The examiner can normally be reached on Mon-Fri 10:00am-7:00pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571 272 4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Masud Ahmed/  
Examiner, Art Unit 3714